THE HON'BLE SRI JUSTICE C.V. RAMULU

Tuesday, 14th November, 2006

W.P.No.23152 of 1995

Between:-

The Executive Engineer, Panchayat Raj Division, Mahabubnagar & another … Petitioner

and

T. Chandraiah & another … Respondents

THE HON'BLE SRI JUSTICE C.V. RAMULU

W.P.No.23152 of 1995

ORAL ORDER:

This Writ Petition is filed seeking to quash the Award dated 22-2-1994 passed in I.D.No.550 of 1993 on the file of Labour Court-III, Hyderabad.

Petitioners are the Management, respondent No.1 is the workman and respondent No.2 is the Presiding Officer, Labour Court-III, Hyderabad. It seems, the workman filed a petition under Section 2-A(2) of the Industrial Disputes Act,1947 being aggrieved by his removal from service with effect from 1-9-1992. It is his case that he had been engaged as NMR on daily wage basis in the year 1976 till 1-9-1992. By an oral order, his services were terminated with effect from 1-9-1992. The same is contrary to law and the provisions of the Act. A detailed counter affidavit has been filed by the Management (petitioners herein) before the Labour Court denying the relationship of employer and employee and the application of the provisions of the Act. However, it was asserted that the workman worked only for 78 days during March,1991 to June,1991; therefore, no provisions of the Act have been violated for granting any relief to him.

Before the Labour Court, on his behalf, the workman examined himself as W.W.1 and got marked Exs.W1 to W13, but no oral or documentary evidence was let in by the Management. After going through the evidence on record, though the Labour Court satisfied that the workman has not completed 240 days of service, it was held that

still the Management is required to take steps and follow the statutory rules of termination as contemplated under Section 25F of the Act, since the termination attracts Section 2(oo) of the Act and granted relief of reinstatement into service with effect from 10-5-1993, but without any liability of payment of back wages for the out of employment period and the Management was directed to consider the past service of the workman in future while regularizing his services, subject to Rules.

Having heard the learned counsel for the parties and having regard to the facts and circumstances of the case, I am of the opinion that the Labour Court has neither decided the matter on merits nor as per the facts recorded by it. Having found that the workman has not completed 240 days of service in a calendar year as required under Section 25F of the Act, it could not have ordered for reinstatement of the workman into service. There are no sufficient reasons for coming to the conclusion that the workman (1st respondent herein) is entitled for reinstatement with other benefits. However, it appears that during the pendency of the I.D. itself, the workman was reinstated into service. If the workman is in service as of now, he may be continued in service without reference to the above conclusions reached by this Court.

Accordingly, the Writ Petition is disposed of. No order as to costs.

14-11-2006

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